

Notes from the Caltrans Statewide PA Teleconference 1/22/04

Intro

Greg King welcomed everyone, and started the round of introductions. Other participants at Headquarters (HQ) were: Margaret Buss, Dorene Clement, Germaine Belanger (Local Assistance), Glenn Gmoser, John Sharp, Dana Supernowicz, and Jill Hupp. On the phone we had representatives from all 12 districts.

Forms and Formats

- Q.** Regarding **signatures on the Negative HPSR** form: If the HRC is also the Branch Chief, should they sign on both lines?
- A. Margaret:** Based on input from districts, the HRC signature is no longer required. There are signature lines for the preparer, the PQS (if preparer is not PQS) and the EBC. Further input from districts is welcome.
- Extensive discussion continued for/against adding a signature block for peer review with some districts in support and others opposed, until **Greg** made an executive decision that we would not *require* a peer reviewer signature.
- Q.** Will HQ have **sample document formats** for us to follow to gain consistency and aid in the review process? This would be helpful.
- A. Margaret:** It is a good idea, but the fear is that this will encourage “cut and paste” boilerplate, rather than well thought-out analysis. Nevertheless, we are considering the idea of posting some good example documents on the Intranet as they come in.

PQS

- Q.** Regarding **PQS levels required for Archaeological** roles: Why is it that a 3H can evaluate historic sites and perform data recovery under supervision of a 4H, but a 3P cannot evaluate prehistoric sites and perform data recovery under supervision of a 4P? Why is it that a 3H and 4H can be the PI and primary author for an Extended Phase I on a prehistoric site, but a 3P and a 4P cannot be the PI or primary author for an Extended Phase I on a historical site?
- A. Glenn:** This was an artifact/mistake of the first “draft” handbook, and is being corrected so that it is equivalent between prehistoric and historical archaeology. It is correct in the PA. Att. 1 says that all Co-PIs and PIs are also Lead Archaeological Surveyors, and are qualified to assist either historical or prehistoric PIs in this work.
- Q.** Should we (or the LA folks?) be asking for the **qualifications of consultants** doing CRM work for local agencies?
- A. Jill:** Consultants cannot be PQS, that’s clear in the PA. But they do have to meet the Secretary of the Interior’s Standards (SOIS). Their qualifications are supposed to be included in the technical studies.

Discussion followed whereby it was recommended that we ask for a consultant's resume before studies begin or as early in the process as possible, so that PQS are aware of the person's qualifications (or lack thereof). One district noted that often by the time a PDT meeting is held, the local agency has already hired their consultants. **Germaine** said that she might modify Chapter 6 and Chapter 12 (of the Local Assistance manual) to add that local agencies should ensure that the qualifications of their consultants are consistent with the SOIS.

Process

- Q.** Regarding resources exempt from evaluation: Are the **30 and 50-year dates** always to the present time? When we are beginning a project, do we look outward at all, if we know construction is several years down the line?
- A. Dorene:** The 30 -50 year span incorporates the "looking ahead." It's a professional judgment call. If the property is 49 and clearly has no potential to be significant at any age, write it off now and don't worry about it turning 50 before the project is built. But if it might require evaluation in the future because its age is the only issue, then I'd evaluate it now rather than exempt it.
- Q.** What about properties **under 30 years** that archaeologists can exempt? Some of our projects are around for 20 years and they could become eligible.
- A. Margaret:** Go ahead and exempt. Environmental studies have to be reassessed every 5-10 years anyway.
- Q.** When **assuming eligibility** on a site (or a portion thereof) with protection by an ESA: Do we ever document that "assumed eligibility" **on a site record** at all? Will the Information Centers be getting confusing information from us with this regard?
- A. Glenn:** First, we would never assume eligibility or determine eligibility of a **portion** of a site; the entire site goes in the APE. You can say that a part of a site is non-contributing to the eligibility of the entire site, but that's different; those calls go to SHPO for concurrence on eligibility. We should **never mention** "assuming eligibility" on a site record. They are descriptive only. Also note that the "assuming eligibility" provision only applies to archaeological properties. All others must be evaluated.
- Margaret** noted that, to be consistent with the PA, we actually use the language "**considered** eligible" for the purposes of the project, not "assumed."
- Q.** So, for built environment properties, we should not say, "appears eligible"?
- A. Dorene:** This is a different issue. But yes, we used to say properties "appear/do not appear" eligible/not eligible because it was actually FHWA's determination. Now the PA delegates this authority to Caltrans, so for all determinations Caltrans makes regarding eligibility of any property we say the property is/is not eligible. Consultants still use the "appears" language, but Caltrans' letter to SHPO will say the property is or is not eligible. Note that if a consultant fails to use the "appears" language, it's no big deal – not a reason to bounce the report.

Q. Discuss the revised process for submitting **ASRs** (text based vs. form based)? In the past we had a form with simple check boxes for routine information. Now a report is required, which eliminates this streamlining feature and will take more time.

A. Margaret: The reason for the proposed change was the abuse of the negative ASR form; consultants often used it even if sites were in the APE, because of thinking “negative” meant “ineligible.” It also meant that some background info was too brief. Now it’s just an archaeological survey report, period. You can put the summary finding of no site at the top, and it can still be a brief document. You wouldn’t do an elaborate overview, for instance, if no sites were found. View the report as the same as the form but without the boxes. You could substitute bullet points for check boxes.

John: I’ve been at SHPO and can tell you other agencies don’t use these forms. They basically don’t say anything; they don’t provide basic information.

Glenn: The thought process is that you’re preparing an ASR – don’t get hung up on the form. The forms were encouraging low-quality work. We weren’t providing adequate information because we were trying to fit things into a form. The report can be brief; you don’t need to have a huge, complex report for a project with no sites. The new guidance will be on-line shortly when the revised EH Vol 2 is posted. Consultants and PQS will be using the same guidance.

Q. Effects Findings - what does SHPO need to see?

A. Margaret: Basically, everything they used to see. But the **level** of documentation depends on whether we are asking for SHPO **concurrence**, or only **notifying** of a finding.

Q. Could HQ clarify/identify the circumstances in case of a finding of No Historic Properties Affected (NHPA), **when & how SHPO should be notified** of

- a) existence of **eligible** properties in APE and
- b) **no effect** on them. (Specify the level of documentation, etc.).

A. Margaret: Keeping in mind that the term "historic property" can only be applied to those eligible for the NR, that we need SHPO to *concur* on whether a property is eligible or not, but not on a NHPA finding. We can get a finding of NHPA in three ways. The documents are processed differently depending on what we are asking for:

- 1) There are no resources in the APE that require evaluation, thus **No** [historic] **Properties** around which could be affected. SHPO therefore does not need to concur in any determination of eligibility or ineligibility, so we don't need to send them the document. We don't need to notify them of effects. There are three subsets to this class:
 - a. there is nothing there -- no archaeo sites, no built env. properties over 50
 - b. there are resources there but they are properties that have been previously determined ineligible for the NR, such as Cat 5 bridges
 - c. there are resources there but they are exempt properties under the PA

- 2) There are resources in the APE that we determine to be ineligible, whether we affect them or not. Thus there are No **Historic** Properties affected. SHPO has to concur in the determination of whether or not they are historic, so we send them the document for the 30 +/- day review. The finding is No *Historic* Properties Affected because, regardless of whether or not the resource is affected, we don't think it's a historic property. If the SHPO were to disagree with us about whether or not the resource is a historic property, we would have to reexamine effects.
 - 3) There are resources in the APE that we determine to be eligible, but we've designed the project so that it won't affect them, so it's really "**Historic Properties** present but **Not Affected**" (too bad we can't call it a HPNA). In that case, we send the document to get SHPO *concurrence* on eligibility, and we use the same document to *notify* them that there is no effect. We are not asking for - and we don't have to build in time for - their agreement on effects, although if they think we haven't made the case, they can object.
- Q.** Is it possible to treat a project as a screened undertaking if it includes **acquisition of a very minor amount of right of way (ROW)**?
- A. Glenn:** Joan Bollman answered this question at the training she attended. Minor ROW takes do **not** negate screening if the project meets the conditions of Attachment 2. It's the action/activities that we're screening, not the ROW take.
- Q.** What needs to be sent to **HQ for their review and comment**? How much **time** will this take? Will HQ also want to review **Local Assistance reports**? Also, **at what stage** does HQ want to review these reports/ maps/ memos? After we have received SHPO concurrence on the entire effort or prior to submitting to SHPO? **At each stage**, i.e., before or after screening, setting APE, etc.? What about our **multiple rounds** of reviews/oversight of consultant reports for County Transportation Authorities, etc.?
- A. Greg and others:**
- This was required by FHWA as part of Quality Control, and was changed from "review and *approval*" to "review and *comment*."
 - We look at final documents just before they go to SHPO or FHWA. We review for consistency when a finding is made under the PA- not intermediate steps of the documentation (unless requested by the district), although we would look to see evidence that the steps were properly followed to reach the conclusion.
 - You do not need to send documents that the PA says remain in the files; they can be reviewed there later on our district visit.
 - We are looking at PA consistency only, not commenting on PQS findings, unless the district specifically requests peer review, although we will point out any obvious "fatal flaws."
 - This is a priority for the office. CCSO review time so far averages to be a one-day turnaround. We cannot promise that that will continue if we are inundated

with documents, but we will try. Also, the DEA has a guaranteed 15-day turnaround for reviews; if you don't hear from us in that amount of time, move on.

- Yes, we review Local Assistance documents. **Germaine** noted that Local Assistance staff have been repeatedly briefed on this, and she said that if there are any concerns we should advise the District Local Assistance Engineer (DLAE) and also notify Germaine's office.
- Can send documents electronically. Would not need to send APE maps except as part of an overall submittal
- Although this is for "comment" only, please do follow our recommendations in our advice on the PA
- This review precedes submittal to SHPO (not concurrent submittal) in case any changes should be needed before sending the documents on.

Q. APE Maps - Who signs off on under the PA?

A. Margaret: For Caltrans projects, it's a PQS and the Project Manager (PM). For Local Assistance projects, the DLAE acts as the PM. The PQS signature indicates that the APE follows the guidelines in Att. 3 of the PA; the PM signature makes the PM accountable that the project is what they say it is at the time the APE was signed. The local public works director can also sign in addition to the DLAE, if the DLAE prefers. As for the **level** of PQS who can sign, it is any archaeologist above a Crew Member and any Architectural Historian or Principal Architectural Historian

Q. Phased Identification under the PA versus before the PA. What is the process now?

A. Dana: Essentially it hasn't changed notably under the PA. It is still FHWA's call. PA Stip XII says that FHWA, in consultation with Caltrans, may approve the phasing if identification, evaluation and application of the criteria of adverse effect under the PA. We still need FHWA's OK, and an MOA as with 800.4(b)(2) and 800.5(a)(3).

Q. "Grandfathering" of Projects

A. Jill: Hans Kreutzberg addressed this issue at the south districts SHPO quarterly meeting.

- Documents already at SHPO prior to the PA implementation will continue to be processed under 36 CFR 800.
- Documents relating to **ongoing consultation** for projects in which consultation was **initiated** prior to PA implementation must continue to be processed under 36 CFR 800. For example, if an HPSR went to SHPO under 36 CFR 800, effect findings for that project would likewise go forward under 36 CFR 800. We can't switch processes in midstream. **As a follow up to this: before the PA, Caltrans was often allowed to submit emails/ letters of clarification or responses to SHPO requests for additional information and certain other documents to SHPO directly, as long as it was made clear in the communication that this was being done with the permission of FHWA (i.e., on*

behalf of FHWA). There is nothing in this provision about ongoing consultation that prevents Caltrans from continuing this practice.

- Documents that were prepared prior to the PA's implementation for projects in which there has been **no prior consultation** with SHPO must be processed under the PA. Some revision might be necessary if the language is seriously out of sync with the terms of the PA, but generally you don't need to spend a lot of effort revising documents to make the language consistent with the PA.
- If you have an APE map signed by FHWA and the EBC, it isn't necessary to get a new map resigned by PQS and the PM/DLAE, as long as the delineation is in accordance with the guidelines of Att. 3 of the PA. In most cases it will be since we have been following that basic guidance for some time now. If in the meantime the project has changed and revisions to the original map are needed, of course the new map would be signed by PQS and the PM/DLAE.
- It's OK if the technical study contains some old regs. language, but the letter transmitting any documents to SHPO must be consistent with the PA.
- Districts have reported (confirmed by Stephanie Stoermer) that some FHWA TEs are returning documents that were submitted to FHWA in late December and advising Caltrans to resubmit them under the PA. HQ will check with FHWA to not only ask if this is being done consistently, but also to make sure they too understand SHPO's grandfathering policy. **As a follow up, HQ spoke with Joan Bollman about this, and she issued guidance to all TEs on 1/23/04.*

Q. Negative ASRs/HPSRs and Monitoring. What are our consultation responsibilities under the PA? What about when we have no properties but there are Native American concerns, and they want monitoring?

A. Glenn: When we condition an undertaking like that, we are in effect planning for post-review discovery, and in that case need a plan and would be in consultation. If we really think we need to monitor, then it's not a negative finding - if the area is sensitive enough that we think monitoring is needed, it should be documented as a finding. Why do we think the area is sensitive? Did we do enough identification work? If there really is nothing there, then it is negative. If we still monitor anyway, SHPO doesn't want to hear about it.

Q. What about redeposits?

Q. Glenn: That is part of identification and whether or not the site is eligible, and that is a determination that goes to SHPO. Consult with the tribes and get their views. But if SHPO concurs that a site isn't eligible, we aren't required to do anything further under Section 106.

Also, to clarify, the level of qualifications needed to monitor is Co-PI. A crew member could monitor though, if under the direction of a Co-PI.

Training

Q. Training issues involving CT project managers, Local Assistance staff, local government folks, and consultants.

- A. **Margaret:** We did a trial training of Local Assistance staff in D4 and have a good idea of how to modify the presentation for them as far as the level of detail they need. PMs would not need more than 2 hours. For others, what do the districts think – can they train their own people with materials supplied by HQ, or do they want HQ to train?

Discussion followed regarding what districts have done so far. D11 has given 30-minute presentations (w/ a fact sheet) to generalists, MPOs, PW directors, etc.

Margaret noted that we are looking into giving training to PMs via their academy, and to consultants via a 1-day training in concert with professional meetings, but this has not been fleshed out yet. **Germaine** said she'll be meeting with the DLAEs once they get the new Chapter 6.

Local Assistance

- Q. May we discuss the topic of **incorporating Local Assistance** projects into our Department's workload?
- A. **Margaret, others:** We want to stress that Local Assistance work is not less important than Capital projects, and we have assured LA staff that they will get equal priority. HQ is a backup for district workload overflow. It would be helpful if districts documented how much time is spent on local projects. Getting detailed, accurate information from Local Assistance upfront is key. If you are getting resistance to people providing this information. HQ can provide backup support so districts aren't getting beat up about holding off until they get this information. One district noted that we need crossover allocation for environmental to be able to spend time working on local projects.

Close

Greg closed by thanking all the participants, and said that we would continue to have these teleconferences. The next one will in approximately 4 weeks; any suggestions for ways to improve the procedure are welcome. Districts should feel free to contact their 106 Coordinator with any questions in the meantime.